Land Unrest in Andhra Pradesh-II: Impact of Grants to Industries

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It is a characteristic of the land grant bonanza that has overtaken the country in the era of double digit growth that nobody is asking why industrial or house-building concerns need all the land they are being granted. The phenomenon is virulent in Andhra Pradesh. The second in a three-part article.

Singur and Nandigram have focused attention on the undesirability of land acquisition for industrial purposes in fertile areas, which are often multi-cropped land. It has been suggested that grant of land of poor quality or *wasteland* to industries is un-problematic, and will put useless expanses to good use while protecting agriculture and the farmers.

While acquisition of fertile lands for industrial uses undoubtedly causes heartburn in the farmers and is even otherwise a serious issue by itself, the alternative suggested is based on more than one fallacy. The first fallacy is that there is any waste land at all in India except in the revenue records. This is not meant in the ecological sense in which every bit of nature is part of a whole and you cannot remove one bit without affecting the rest. The concern is much more immediate. India is not so rich that any part of nature will be allowed to remain unused. People use every bit of nature, and every time you hear a government say that a certain expanse of unused government land has been made over to some company, you can be sure there are hundreds if not thousands of people whose needs have been slighted by default. It would, however, be a further fallacy to assume that all such use is desperate in nature and born of abject poverty.

There is the systematic use too, such as the use of coasts (a typical instance of "*wasteland*" belonging in law to the govern-ment and controlled by coastal regulations) by fishing communities for berthing their boats, drying their nets, trading their catch and repairing their implements. Or the use of rock-filled "*wastelands*" of the Deccan by stone quarrying communities (it is the caste occupation of some of the most backward and hardy people) to make a living for themselves by quarrying for the building

industry. And so on.

The second fallacy is to equate the farmers' agitation against acquisition of arable land with the agricultural economists' concern with loss of farm produce. The latter stresses the undesirability of loss of multi-cropped land, whereas for the farmer whose land is taken away the land is the only source of livelihood, whether it gives two crops or one or just a notional crop. The wisdom one has heard from a range of persons from Sonia Gandhi to M S Swaminathan, that multicropped land should be exempted from acquisition, would make no sense whatever to the farmers. If anything, the compensation that fertile land would bring may provide alternative livelihood to the land-loser, whereas the compensation given to poor quality land would provide none. Ask the farmers of arid lands and they would say the opposite of these wise persons: acquire multi-cropped land because its market value is higher and the dispossessed landowner can live on the compensation, but spare us please. At this point a lot of people will get angry and ask whether India needs to industrialise or not, as chief ministers hungry for investments have been asking. As of now I am not saying anything on that except to point out that if we take livelihoods seriously, land grant to industries is much more problematic than the crop productivity vs industrial growth debate would indicate.

The third fallacy is the assumption that the kind of land grants industries are asking for these days can be met exclusively from arid or *wastelands*. *Rule 5(2)* of the central rules under the *Special Economic Zones* (SEZ) *Act* wants that land granted to an *SEZ* must be contiguous, and developers who have the money to invest are asking for nothing less than 10,000 acres, though the rules permit smaller *SEZs*, for they have big money and want to make bigger money. Even *non-SEZ* land grants are huge in size because unlike in the past when an industrialist would be satisfied if he got land for the factory site from the government, in the era of pampered enterprise they want land for whole townships, complete with not only residential quarters for their permanent staff, but clubs and parks for the *sahibs* too. And where in India outside the *Thar* desert do you get such huge expanses of wholly waste or arid land unbroken by irrigated land? If you do, it will be in some godforsaken wilderness, but our pushy entrepreneurs want lands as close as possible to a four-lane highway, electrified railway line, shipping harbour, airport and a metropolitan city if possible, so that they may while away their evenings the better.

That the focus of debate in the country has been on the undesirability of acquisition of fertile land for industries is a circumstance that has helped governments to get away with grants of huge tracts of land described as "*wasteland* where nothing grows and which no one owns". Part of the claim is patently dishonest, for private lands which yield good income for the farmers are often described as land of poor quality while

approving their acquisition for industrial uses. But in most cases the revenue records do show the land to be *wasteland*, and therefore presumed to be unused, but the reality is starkly otherwise.

A well publicised example is the land sought to be given by the government of Orissa to the iron and steel project of *Pohang Steel Co (POSCO)* in Jagatsinghpur district. Out of the 4,004 acres to be handed over to the project (it is kept deliberately vague whether this is the whole of the land grant or only its first phase), 3,566 acres are declared to be government land, by implication uncultivated and nobody's personal property. It is in part forest land and in part revenue land. Far from being unused, almost the whole of it bears betel vines and cashew fruit trees, on which the landless families of three gram panchayats, Gadkujang, Dhinkia and Nuvagaon, have been living for decades. They were entitled to have their rights officially recognised under the *Orissa Prevention of Land Encroachment Act, 1972* which permits regularisation of occupation of revenue land by the landless poor up to one acre per family, and the recently passed *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest rights) Act, 2006* which mandates regularisation of usufructory rights enjoyed from prior to December 13, 2005 in the forests, including *reserve forests*, by not only *scheduled tribes* but others too, provided (in the case of the others) they have been living there for three generations.

The people of the three villages are clearly entitled to the protection of these legal provisions, but the government of Orissa will not tell them they have these rights. Instead, it treats the land in their occupation as its own unused and unusable property, which can be assigned to factory sites at will. The people of the three villages, unwilling to give up the land that gives them substantial livelihoods, have barricaded the nine roads that lead to the area and are ready to battle it out. Even in the narrow eyes of the law they are not encroachers coming in the way of development but occupiers having the right of regularisation, and whatever follows from that. What follows, indeed, is the other half of the issue, of which more below. But middle class Orissa's view of them as a nuisance that comes between it and paradise is baseless even in the narrowest view.

Andhra Pradesh has its Jagatsinghpurs. The grant of first 10,760 acres and then another 4,000 acres to a certain Janardhan Reddy — an MLC of the BJP from Bellary in Karnataka — to set up a steel plant near Jammalamadugu in Cuddapah district of Rayalaseema has attracted a lot of attention. This is because the *Telugu Desam Party* has been campaigning against the favour shown to this one entrepreneur to the exclusion of others (including Telugu Desam men, it is needless to add) who may be equally interested. But that is not our story. Our story is centred on the land granted to the *Brahmani Steels*, the industrial unit that is to come up there. The government said it

was all *wasteland* belonging to it and hence there will be no question of any forcible land acquisition. The first question is the extent: after announcing that 10,000 odd acres would be given for the plant, another 4,000 was added on because the company wanted "to build an air strip", according to press reports. That extent of land for what will practically be a captive airport is outrageous. But such liberality is not peculiar to the *Brahmani Steels*. It is a characteristic of the land grant bonanza that has overtaken the country in the era of double digit growth that nobody is asking why industrial or house-building concerns need all the land they are being granted. The value of the land may not be much today, and may be notional if it is government land, which makes it possible to dismiss such queries as nit-picking, but once industry comes up, the land surrounding it will appreciate considerably in value, and can be the nucleus of a profitable real estate business that has nothing to do with the stated purpose of the land grant. If the area is close enough to a metropolis, it may well turn out to be in fact the actual and not a subsidiary purpose of the whole affair.

The second concern is that the so-called *wasteland* is in no sense a "waste". There is a hamlet called Chitimitichintala of about 200 houses located in the land, peopled by *Sugalis* (called *lambadas* in telangana and *banjaras* in central India). The *Sugalis* are recognised as a *Scheduled Tribe* in Andhra Pradesh. The *Sugalis* of Chitimitichintala are cultivating about 450 acres of the land now given to *Brahmani Steels*. Part of this land (though its legal status is not very clear) appears to belong to a *Shrotriyam*, a kind of land grant given to brahmins in the past. All such superior or special rights in land have been abolished after independence, and the lands have been settled in favour of persons (including the superior landholders themselves) who showed some evidence of having cultivated or occupied them in the past with the permission of the landholder. The *Sugalis* too should have got legal title to the land under their cultivation, but they made no effort to claim the legal rights, which they did not know they had and the government did not care to tell them of. They remain therefore encroachers on what is by default government land. But even if it is government land and they are encroachers, being encroachers of long standing and landless poor to boot, they are entitled to regularisation of their occupation under the *Board of Revenue Standing Orders* inherited by Andhra Pradesh from the old Madras state. Since the government did not care to do that, they remain encroachers who are presumptuously questioning Andhra Pradesh chief minister Y S Rajasekhara Reddy's gift to Rayalaseema.

The story does not end here. The entire land, and not just these 450 acres has provided the *Sugalis* with substantial livelihood. It is a scrub forest and provides forest produce of various kinds, which they consume or sell. The land is located at an elevation and is good pasture land too. In the monsoons, the cattle of neighbouring low-lying lands of the *Penna* river basin villages of Cuddapah and Kurnool districts

find grazing difficult in the water-logged lands, and their owners therefore bring them to these uplands and hand them over to the custody of the *Sugalis*, who graze them at the charge of Rs 30 per animal per month. Tens of thousands of cattle are grazed by them each monsoon season. It is a great facility for the *Sugalis* as well as the farmers of the neighbouring low-lying areas stretching quite far off. Yet, the ideology of development calls the land "*wasteland*", and is impatient with talk of the livelihood it has provided to the local people. The *Sugalis* are agitating vigorously, though they will not try blockading the *Brahmani Steels* a la the *anti-POSCO* agitation, since the Andhra Pradesh police are not the Orissa police. Any blockade will be smashed in a couple of hours and every man, woman and child jailed. Yet they are determined to obstruct the work till their grievance is heard.

Impatient people will ask what kind of compensation can be given for the fodder lost by nameless cattle and all that, but a few more points need to be made before we go on to that. In almost all cases where the victims of forcible land acquisition oppose takeover of their land, they point to some alternative and try to make out a case that it is better even for the stated purpose of the acquisition to take that land rather than theirs. The enquiry under *Sec 5-A* of the *Land Acquisition Act, 1894* is in part meant for considering such suggestions. Not only governments but all the proponents of quick development are usually impatient with such suggestions, which in their view is the presumptuous advice of ignorant peasants. In Andhra Pradesh the government has institutionalised this impatience by routinely invoking the urgency clause in *Sec 17* and dispensing with the *Sec 5-A* enquiry. But in fact a lot of politics goes into selection of the site to be acquired, except where purely technical considerations decide.

If the land to be acquired is identified by some bureaucrat or engineer closeted in his office and inadvertently includes the land of the politically influential, they can and do get the site shifted, and it is only after this operation is done as many times as the well-heeled are affected that the final proposal, which has the bogus air of a dispassionately and expertly drafted document, comes out. The ones who avoid takeover of their land kill two birds with one stone: they save their land and ensure that its value goes up because the project will come up in some neighbouring land.

The most notorious such instance is land acquisition around Hyderabad for a monstrosity called the *outer ring road*, a 500 feet wide eight-lane highway that is to run around Hyderabad at a distance of 30 to 40 kilometres. Maybe Hyderabad will need such a highway in the future and maybe it will not, but the project is a sure prescription for pushing up land values all around the city. The trick then has been to buy land in the periphery of the city by spreading the rumour that there is going to be compulsory land acquisition for the road and the small landholders cannot afford the litigation needed to get a good price, and so they had better move out early by selling it to the

financially able. Once you buy land, or if you have land in the area from the beginning, ensuring that the road goes near but not through your land is the next step. Thus the alignment of the outer ring road has been changed again and again and has finally ended in the lands of the most voiceless.

Hyderabad did not give much trouble to the government on this score but a similar game played out with the port-based *SEZ* at Kakinada has called up the stiffest resistance to land acquisition for *SEZs* in this state as of now. An *SEZ* of extent 9,869 acres meant for the ONGC's oil refineries was planned near Kakinada, the head-quarters of the prosperous district of East Godavari.

The initial site was near that sizeable town, but in paddy fields. The farmers protested relying on the familiar argument of loss of *double-cropped land*. But it was the real estate businessmen whose opposition finally mattered. Kakinada was bound to grow with the *SEZ*, and if the *SEZ* could be pushed some distance away, this land surrounding the town would be gold. So it happened that the land acquisition for the *SEZ* was pushed back to rural areas of Uppada Kothapalli and Tondangi *mandals*, some distance from Kakinada, parallel to the sea-coast but some distance inland. Since the argument of avoiding acquisition of *double-cropped land* was the official *raison d'être* of the change, the land now to be acquired was described as land of *poor quality*. This has enraged the residents of the villages now to be acquired. There are in fact plenty of coconut, cashew and casuarina groves on the land. The sea-coast is the home of fishing communities, and while the *SEZ* will come up some distance in the interior, in deference to coastal regulations, the chemical pollution that comes with refineries, the fisherfolk apprehend, will pollute the streams that flow into the sea and kill fish.

More importantly, the villagers know that their lands have been chosen because real estate dealers of Kakinada managed to get the first choice dropped. They resisted the survey of the lands effectively for months, but on September 6 this year a huge force of hundreds of armed policemen raided the villages of Srirampuram, Rayavaripodu, Mummidivaripodu, Ramaraghavapuram and Katurivaripalem, arrested all the leaders of the agitation, beat up the women who came in the way and stood guard while the survey team finished its job. If each stage of the land acquisition is to be completed by such means, there could well be bloodshed on a day when the people are more determined and less unprepared.

The resistance to industrial land acquisition has raised a whole debate about the very propriety and justification of the power of *compulsory land acquisition*. But the people themselves resist it for the plain reason that every land acquisition leaves the displaced people much poorer, even as it hopefully leaves the country's GDP richer, because India does not have even the semblance of a *fair and just compensation and rehabilitation policy*. Owners of immovable property (mainly land and houses) get a

notional market value of the property as compensation, which is considerably less than the actual cost of the property because the officially recognised market value is based on the rate at which land transactions are registered, and properties are undervalued in registration to reduce the stamp duty. Litigation is of course an option available for increasing the compensation but so many hands dip into the till — middlemen of all kinds, lawyers and sometimes judges too — that it is often an illusory option. And those who do not have title to the resources they live on get no compensation under any law. What they do get is a lot of promises, which these days take the form of policy pronouncements which do not survive the displaced persons' assent to the ouster.

SEZ in Chittoor District

The first *SEZ* to be approved in Andhra Pradesh was an extent of slightly more than 12,000 acres covering 16 villages with total population of about 25,000 in Satyavedu and Varadayyapalem *mandals* of Chittoor district. The big landholders were promised compensation of Rs 2½ to 3 lakhs per acre rather than the notional market value, and the others were sought to be persuaded by promises of jobs, alternative lands, rehabilitation in a properly constructed colony, etc. Most people doubted the promises but were not unamenable to persuasion by smooth talking officers, but there were two angry villages that refused to be taken in. These are Tonduru Society and Sriharikota Colony. They are wiser because they have been there before. They had left their original habitation in Nellore district in 1972 to make way for the *Indian Space Research Organisation*'s centre at Sriharikota, which is frequently in the news for India's achievements in that realm of technology. They are 274 families in total, about half of them *dalits*. At that time they left without demur partly because nobody talked against displacement in those days, partly perhaps for the greater glory of the nation, but mainly because they were promised five acres of cultivable land, one job per family (in a space research centre) and a nicely built colony. Nobody got a job, the land they got was not five acres but 2½ acres — not cultivable land but wild bushes in snake-infested country — and even that was not given with full title but in the name of a cooperative society. As for the promise of a rehabilitation colony, what they got was a mere house-site each, where they had to put up their own huts. It took them quite a few years to climb back to the standard of living they had lost, and so they know what *displacement* means.

This is the situation everywhere, and this is why people are opposed to land acquisition in the name of "development". The poor who depend for livelihood on public land have to just leave it and move. They may be cultivating it without any title, or on

assignment or lease from the government, or they may be grazing sheep, quarrying stone, tapping *palm toddy*, catching fish in water sources, etc., on the land. Those who labour on the land of others also have to move, leaving whatever security that livelihood provided them with. In caste-divided India, each of these is often the occupation of a particular caste, or predominantly of a caste, as agricultural labour is that of *dalits*. The general disability imposed by caste, that the skill and instruments of other vocations are not easily accessible, adds to the universal woes of forcible dispossession and displacement. There is no uniform and binding right of compensation/rehabilitation for all such project affected persons, as they are called these days, in India. The various state governments either ignore the issue, or pull out whimsical policies to meet the exigencies of tricky situations arising from determined opposition.

This opposition has led to a lot of discussion on the very power of land acquisition. But the discussion has confounded a lot of things. The power of compulsory land acquisition for a public purpose, the *Land Acquisition Act, 1894* (usually described in horrified tones as "a piece of colonial legislation", as if much Indian law is not of colonial vintage), and the principle of "*eminent domain*" have been mixed up quite thoroughly in the debate. To begin with the last thing first, *eminent domain* is an eminently discardable principle, but it is not found anywhere in Indian law, modern or ancient. It is an English notion — that the sovereign has supervening right over everybody's property — borrowed by the Supreme Court to defend the state's power to effect land reforms. It is part of the failure of Indian jurisprudence that even when the courts wanted to defend good things they have relied on the importation of safe principles from the English law rather than risk looking at the welfare dimensions of the Indian Constitution itself. The notion that the state is a *trustee* of natural resources on behalf of the people is another such principle. It was invoked to defend environmental concerns. Like the principle of *eminent domain* this one too is class neutral and can turn against the poor, whereas if the courts had relied on the directives in *Part IV* of the Constitution, they would have found support for land reforms and environmental legislation which is not class neutral and cannot be turned against the poor.

The Land Acquisition Act, 1894 was less objectionable in its colonial form when its power was confined to acquisition for a public purpose, than its postcolonial amendment of the year 1984 which permitted compulsory acquisition of land for companies too. However, the structure of that law shows that it was intended only for acquisition of small bits of land for purely local purposes like a school or road in a village. It was never intended for massive land acquisition for projects and industries. A completely new law is needed for such land acquisition, which must have written into it a clear and unambiguous definition of what is *public purpose* and must encompass

the framework of a comprehensive scheme of *rehabilitation* which will guarantee full protection of livelihood, opportunities and community life, devised in a manner that ensures that the scheme as operationalised meets with the satisfaction of the displaced.

For the power of *compulsory land acquisition* as a purely statutory power without any philosophy of *eminent domain* cannot be taken away from the state. The suggestion that land can be acquired only if the landholder is willing or only with the approval of the *gram sabha* is a notion innocent of social realities. Imagine a situation where the government wants to construct a housing colony for homeless *dalits* in a village, and there is no government land in the village and all private land is held by caste Hindus. If the government is to await the consent of the farmers or the *gram sabha*, it may well wait forever. Consent of the *gram sabha* as a precondition for land acquisition makes sense only in tribal areas, that too where class divisions have not yet taken place on a significant scale, but not in the class and caste divided plains.

Finally, one word about the idea doing the rounds (it seems to have emanated with the Congress leadership) that the government shall not acquire land for *SEZs* and other industrial ventures, but shall leave it to the investors to do so. This is legally absurd because no private person has the right to compulsorily acquire another's land. What is in fact happening in the guise of this seemingly fine principle can be seen in Andhra Pradesh, especially the Kakinada *SEZ*. The government agrees to pay compensation according to the consent of the landholder, and lets the investor negotiate the price. He first negotiates with the gentlemen farmers or absentee landlords who are tired of the uncertainty of extracting rent from unwilling tenants and would like to get rid of the land. The government then tells the other land-losers that they too shall accept the same rate, or else receive *notional market value* and litigate in the courts, and they shall please inform the district collector of their decision by the last day of the next month, on which date the offer closes. Trust the rulers of this country to pervert the highest sounding principles!